



PUBLIC NOTICE

Federal Communications Commission
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DA 03-90
Released: January 15, 2003

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER BY MIDPORT ELECTRONICS, INC. TO ALLOW OPERATION ON FREQUENCIES IN THE 421-430 MHz BAND IN THE DETROIT, MICHIGAN AREA

Comment Date: February 14, 2003

Reply Comment Date: March 3, 2003

On August 20, 2002, Midport Electronics, Inc. ("Midport") filed an application for authorization to operate a base station and control unit on various 421-430 MHz frequencies at a distance of 52.8 miles from the geographic center of Detroit Michigan.¹ Midport states that grant of the requested waiver will result in more extensive land mobile usage, and make its land mobile service available, at no cost, to various charitable agencies and organizations in Ohio.

Our rules require that base or control stations operating in the frequency band 421-430 MHz in the vicinity of Detroit be located within 80 kilometers (50 miles) of the center of the city.² Stations operating within these distance restrictions are authorized to transmit at 90 watts. To compensate for the fact that Midport's proposed site lies 52.8 miles from the center of Detroit, Midport proposes to operate at a reduced power of no more than 80 watts. Midway contends that its service radius will be equivalent to or less than the geographic area that Midport would serve if its proposed station were to operate at 90 watts, within the 50 mile geographic restriction area. Midway further contends that with the reduction in power, Midport's mobile relay transmissions will impact an area that is less than the comparable area affected if Midport were operating at full power from within a 50-mile radius of Detroit. Consequently, Midport requests a waiver of Section 90.273(c) of the Commission's Rules.

Midport argues that grant of the requested waiver will not undermine the fundamental purpose served by the rule in question, citing that the rule was adopted "to provide for the most intensive use possible of this spectrum by land mobile entities throughout the Buffalo, Detroit, and Cleveland areas." Midport also cites that a secondary purpose of the rule was to avoid unduly impeding operations in the Amateur Radio Service. To further address this aspect of the provisions of the Commission's rules, Midport states that its proposed station location represents a *de minimis* extension of the 50-mile standard. Coupled with its proposed reduced output power and its distance from authorized Amateur stations in the Detroit area, Midport contends that there should be no adverse impact on stations in the Amateur radio service.

¹ FCC File No. 0000998539.

² 47 C.F.R. § 90.273.

Interested parties may file comments on Midport's Waiver Request on or before February 14, 2003. Parties interested in submitting reply comments must do so on or before March 3, 2003. All comments should reference Midport's Waiver Request, including the DA number of this Public Notice, and should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-325, Washington, D.C. 20554. A copy of each filing should be sent to: (1) Qualex International, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893; (2) John Evanoff, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, Policy and Rules Branch, 445 12th Street, S.W., Room 4-C327, Washington, D.C. 20554; and (3) Maria Ringold, Federal Communications Commission, Consumer and Governmental Affairs Bureau, Reference Information Center, 445 12th Street, S.W., Room CY-B529, Washington, D.C. 20554.³

The full text of the Waiver Request, comments and reply comments will be available for inspection and duplications during regular business hours in the Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. Copies may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com. For further information regarding the public reference file for this Request, contact Maria Ringold, Chief, Wireless Branch, RIC, (202) 418-1355.

Unless otherwise provided, requests for waiver of the Commission's Rules are subject to treatment by the Commission as restricted proceedings for *ex parte* purposes under Section 1.1208 of the Commission's Rules, 47 C.F.R. § 1.1208. Because of the policy implications and potential impact of this proceeding on persons not parties to the waiver request, we believe it would be in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules, *See* 47 C.F.R. §§ 1.1200(a), 1.1206. Therefore, subsequent to the release of this Public Notice, *ex parte* presentations that are made with respect to the issues involved in the subject Waiver Request will be allowed but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b).

For further information, contact Ms. Joy Alford, of the Policy and Rules Branch of the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau at (202) 418-0694, TTY (202) 418-7233, or via e-mail to jalford@fcc.gov.

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

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³ The address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. *See* FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001).